

**OPINION**  
**53-77**

September 3, 1953            (OPINION)

MOTOR VEHICLES

RE: Proportionate - Fees - Reciprocity

You have requested an opinion as to the legality of licensing all foreign trucks owned by one fleet owner, on a proportionate fee basis rather than licensing a proportionate number of his trucks on a full fee basis, where proportionate licensing is authorized under Chapter 236 of 1953 Session Laws.

It is my opinion that proportionate licensing of foreign trucks was made a proper subject for reciprocal agreements by Chapter 236 and that it was intended to provide a means by which the State of North Dakota might receive from owners of foreign trucks which use North Dakota highway facilities, their just and proper portion of costs in providing these facilities.

Where a form is prescribed, deviations therefrom not affecting the substance or calculated to mislead shall not vitiate the form used. (N.D.R.C., 1-0112).

In the case you describe, the act of collecting the proper share of highway costs from owners of foreign trucks, is a ministerial act charged to the Motor Vehicle Registrar by the legislature. The entering of reciprocal agreements was left to the discretion of the Highway Commissioner with certain prescribed limitations.

Chapter 236, being an exception to the licensing requirements of title 39 of the North Dakota Revised Code of 1943 as amended, the Motor Vehicle Registrar may accept such share of the regular license fee as may be determined to be proper and proportionate by the Highway Commissioner after his negotiations and investigations in connection with reciprocity agreements.

ELMO T. CHRISTIANSON

Attorney General